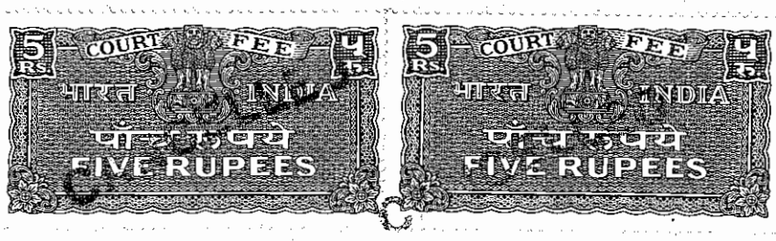

(3) (5)

CF 102

SINGLE BENCH

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR CHHATTISGARH

W.P. (S) NO. 6507 **/2006**

PETITIONER : Ganga Prasad Dhritlahare, Aged 50 years, S/o. Kapoorchand Dhritlahare, Sarpanch, Gram Panchayat, Jhara, Vikaskhand, Tahsil & District Mahasamund (Chhattisgarh)

VERSUS

RESPONDENTS

1] State of Chhattisgarh, Through: Secretary, Panchayat & Social Welfare Department, D.K.S. Bhawan, Raipur, (Chhattisgarh)

2] Collector, Mahasamund, District Mahasamund (Chhattisgarh)

3] Sub Divisional Officer & Specified Officer, Mahasamund, District Mahasamund (C.G.)

4] Chief Executive Officer, Janpad Panchayat, Mahasamund (C.G.)

5] Nayab Tahsildar, Bagbahara, as Presiding Officer, Mahasamund, District Mahasamund (C.G.)

P.R. No. 6585/06
Presented by Shri M. K. Pharsaipe
dated 31-11-06

20/11/06

RECEIVED COPY
21/11/06
CLERK to A. G. BILASPUR

WRIT PETITION UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA

XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

W.P.(S). No. 6507/2006

मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	24-11-2006 Shri Vaibhav Govardhan, Advocate for the petitioner. Shri Arun Sao, Govt. Advocate for the State. Heard on admission. The petitioner by this petition under Article 227 of the Constitution of India has questioned the legality and correctness of the order dated 17-10-2006 of Annexure P-5 passed by the Collector, Mahasamund whereby the revision preferred by the petitioner under Section 21(4) of C.G. Panchayat Raj Adhiniyam against the order of Sub Divisional Officer, Mahasamund dated 6-9-2006 of Annexure P-4 has been dismissed and resolution of no confidence carried out against the petitioner was confirmed. Grievance of the petitioner is that in the revision the petitioner had raised following grounds before the Collector, however, the Collector without considering the grounds raised by the petitioner has summarily rejected the revision in contravention of provisions of Panchayat Raj Adhiniyam and the rules made thereunder:- i. The mandatory provisions of sub-rule (3) of Rule 3 of C.G. Panchayat (Gram Panchayat Ke Sarpanch Tatha Up-Sarpanch, Janpad Panchayat Tatha Zila Panchayat Ke President Tatha Vice President Ke Virudh Avishwas Prastav) Niyam, 1994 (for short hereinafter referred to as the Rules of 1994) of dispatching notices of the meeting to the members before 7 days of the meeting have not been complied with. In the resolution there is no mention as to through whom the notices were affected; ii. The petitioner was not afforded an opportunity to put up his defence in the above meeting and thus there is a clear violation of sub-rule (3) of Rule 5 of the Rules of 1994	

XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

W.P. (S) No. 6507/2006

मामला क्रमांक ..... सन् 200

(41)

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

iii. Quorum has not been mentioned in the Minute Book;

iv. There is no mention that no confidence motion was moved which is a mandatory requirement as per sub-rule (3) of Rule 5 of Rules of 1994.

I have heard the learned counsel for the parties.

So far as despatch of notice of the meeting to consider the no confidence motion is concerned, there is no dispute that the notice was despatched before clear 7 days and the same was served upon the petitioner on 27-8-2006. The other objection regarding non-mention of the person through whom summons were to be served is concerned, simply because the notice does not mention that through whom it is to be served it will not render the meeting itself invalid particularly when the notices were already served to all the members of the Panchayat and they all participated in the said meeting. So far as the objection that the petitioner was not afforded an opportunity to put up his defence is concerned, on a reading of Annexure P-4 itself, it is evident that the petitioner had spoken in the said meeting. The objection regarding non-mention of the quorum in the proceeding has no relevance particularly in the light of the fact that all the 15 members participated in the said meeting including the petitioner and motion of no confidence was carried out with a majority of 13/2 votes. So far as the objection that resolution of Annexure P-4 does not mention moving of the motion is concerned, the subject matter of the meeting clearly shows that the meeting was convened for consideration of no confidence motion against the petitioner and Panch Smt. Gangabai and Khileshwar Prasad initiated the proceedings and put up their grievance against the petitioner which was dully replied by the petitioner himself and thereafter, the motion was put up to vote. Therefore, the grievance of the petitioner that the learned Collector without deciding the objection raised by the petitioner has summarily dismissed the

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

W.P. No. 6507/06

मामला क्रमांक ..... सन् 200

(42)

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	revision is without force. This Court is of the opinion that there is no irregularity or illegality in adaptation of motion of no confidence against the petitioner which requires interference by this Court while exercising the jurisdiction under Article 227 of the Constitution of India. Therefore, the petition is dismissed at the motion stage itself. **Sd/-** **Dhirendra Mishra** **Judge**	

P.T.O.

9/12-04 5/7/12